THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.22561 OF 2006

DATED: 01.11.2006

BETWEEN:

Suraj Karan

… petitioner

And

The Commissioner,
Municipal Corporation of Hyderabad,
Hyderabad.
And another

… Respondents.

THE HON'BLE SRI JUSTICE P.S.NARAYANA

WRIT PETITION NO.22561 OF 2006

ORDER:

The matter is coming up for admission. Heard Sri Basith Ali Yavar, learned counsel representing the writ petition and Sri Ghanta Rama Rao, the learned Standing Counsel representing the respondents.

The writ petition is filed seeking a writ of mandamus declaring the action of the respondents in refusing to receive and process the petitioner's application for building permission for constructing building in premises No.10-5-2/3/3/c and 10-5-2/a/8/1/b situated at Masab Tank, Hyderabad as it is not accompanied with No Objection Certificate and basing upon the entry in TSLR, as illegal, arbitrary and violative of principles of natural justice and consequently direct the respondents to receive and process the application for building permission without insisting on No Objection Certificate and without reference to entry in TSLR, and to pass such other order.

Several factual details are narrated in the affidavit filed in support of the writ petition. It is needless to say that the respondents cannot insist on the No Objection Certificate from the Revenue authorities. But however, as far as the entry in TSLR is concerned, this Court held that such entry in TSLR cannot be the sole basis on the part of the Corporation authorities while taking a decision in such matters. The Corporation authorities are bound to consider all the relevant

documents and arrive at a conclusion. In **Jitender Chottai and Another VS M.C.H. Hyderabad and Another**[1] this Court at paras-8 and 9 observed as hereunder:

> " As far as No Objection Certificate from revenue authorities is concerned, there cannot be any doubt or controversy whatsoever that it is not necessary. The only question that may have to be decided is in relation to the entries in TSLR. As far as entries in TSLR are concerned, the learned Judge of this Court in **Hyderabad Potteries Pvt., Ltd., vs Collector, Hyderabad District and another (2001(3) ALT 200)** at para-20 observed as follows:
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> > ' A bare reading of scheme of the A.P. Survey and Boundaries Act, 1923 would make it clear that the survey made under the said Act is mainly intended for the purposes of identification of the lands and fixation of boundaries. There is no provision under the Act intending to make any detailed enquiries with regard to the right, title and interest of the persons in the land. It is neither the object nor the scheme of the said Act. There is no presumption that every entry made in the TSLR shall be presumed to be true until contrary is proved as in the case of entries made in the record of rights under the provisions of A.P. Record of Rights in Land Act, 1971, it is not a record of right. There is no such provision in the Andhra Pradesh Survey and Boundaries Act, 1923.'
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> Reliance was also placed on the decision in Writ Appeal No.10961 of 2001, dated 24th December, 2001. In Writ Petition No.19763 of 2005, the learned Judge of this Court after referring to the decision in Hyderabad Potteries Pvt., Ltd., (1 supra) expressed the view that the action of the 4th respondent – Commissioner, Municipal Corporation of Hyderabad in not entertaining the petitioner's building permission based on entry in TSLR cannot be justified and accordingly the writ Petition was disposed of directing the 4th respondent to entertain the petitioner's application for building permission and pass appropriate orders in accordance with the provisions of the Hyderabad Municipal Corporation Act and the Rules governing thereto. Hence, it is clear that the

> entries made in TSLR cannot be said to be the sole basis and the Corporation authorities are bound to consider all the relevant documents and arrive at a conclusion. Hence, on that ground alone refusal to entertain the application cannot be justified."

In view of the same, the respondents are bound to consider the application for giving permission in question without insisting on the No Objection Certificate from the revenue authorities, and also further bound to consider the pending application, not on the sole basis of the TSLR entry alone, but on the basis of the relevant documents which may be produced in this regard and arrive at a conclusion.

With the above directions, the writ petition is accordingly, allowed to the extent indicated above. No costs.

01.11.2006.

mdaa

[1] 2006(3) A.P.L.J. 161 (HC)